

Report to the Board of Adjustment

Prepared by the Maricopa County Planning and Development Department

Case: BA2006059

Variance

Hearing Date:

August 9, 2006 (Continued from July 12, 2006)

Agenda Item:

5

Supervisory District:

1

* Indicates revisions or new information since the July 12, 2006 hearing date

Applicant/Owner:

Reinhold Wirth

*** Request:**

Variance to permit:

An existing residence with a setback of 34 feet from the front (west) property line where 40 feet is the minimum required in the Rural-43 zoning district.

This variance is requested from the following Zoning Ordinance Section(s):

Section 503, Article 503.4.1.a

Site Location:

21321 South 154th Street – Ocotillo Road and Val Vista Drive (Gilbert area)

Site Size:

45,515 square feet (1.04 acres)

Existing Zoning:

Rural-43

Current Use:

Residential

Citizen

Support/Opposition:

A petition of support with 10 signatures was received at the time this report was written. There is no known opposition.

Staff

Recommendation:

Approve with stipulations

Existing On-Site and Surrounding Zoning:

1. On-site: Rural-43
North: Rural-43
South: Rural-43
East: Rural-43
West: Rural-43

Existing On-Site and Surrounding Land Use:

2. On-site: Single-family residence
North: Single-family residence
South: Vacant
East: Single-family residence
West: Single-family residence

Background:

3. **February 2, 2000:** A lot split was recorded under docket number **109458**, creating five separate parcels 304-71-111A, **111B** (the subject site) 111C, 111D and 111E from the parent parcel (304-71-111).
4. **October 15, 2001:** The residence on the subject property was finalized under building permit **B199900675**.
5. **July 15, 2005:** The subject property transferred ownership via a Warranty Deed to the current property owner under docket number **20050986439**.
6. **December 23, 2005:** The applicant applied for a building permit to construct a 1,500 square foot metal building.
7. **February 21, 2006:** Staff notified the applicant that the proposed accessory structure was in the side yard and a variance would be necessary.
8. **May 26, 2006:** Board of Adjustment case **BA2006059** was applied for by the property owner.
- *9. **July 12, 2006:** The Board of Adjustment voted to continue this variance request case to the August 9, 2006 hearing date so the applicant could consult with staff and revise the site plan.
- *10. **July 17, 2006:** The applicant met with staff and was informed as to where he might place the proposed structure and be in compliance with the Zoning Ordinance. The applicant was instructed that he was to provide a revised site plan.

Findings:

11. **Maricopa County Department of Transportation:** No response at the time this report was written.
12. **Flood Control District:** No response at the time this report was written.
13. **Environmental Services Department:** No response at the time this report was written.
14. **Drainage Administration:** No drainage concerns.

Site Analysis:

15. The subject site is located approximately ½-mile south of Queen Creek Road, ¼-mile east of Val Vista Drive and ¼-mile north of Ocotillo Road in the Gilbert area. The subject site is a rectangular shaped lot measuring 204.26 feet in width and 222.83 feet in depth. The site encompasses approximately 45,515 square feet or 1.04 acres in area. Access to the site is provided from a private driveway that connects directly to 154th Street which provides access to Appleby Road to the north and Ocotillo Road to the south. Staff notes that Appleby Road is considered a mid-section street.
- *16. Five separate parcels, including the subject site, were created in 2000 from parent parcel (304-71-111). The property is developed with a 4,635-square foot single-family residence with an attached garage. The residence is intruding into the front yard setback 6 feet and is the reason for the variance request. The applicant is proposing to build a 1,500 square foot accessory structure. Initially the proposed location for this structure was the south side yard of the property, 6.89 feet from the side property line and as such did not meet the minimum side yard requirement. The applicant met with staff and was informed where the proposed accessory structure could be placed and be in compliance with the Ordinance. The subject site is generally flat with citrus trees and an irrigated lawn throughout the entire property. The site is enclosed by cable and hog wire fencing.

17. The following table is included to illustrate and contrast the standards for the underlying zoning district with those proposed by the applicant.

Standard	Rural-43 Zoning District	Proposed Standard
Front Yard Setback	40-feet	34-feet
Rear Yard Setback	40-feet	90-feet
Side Yard Setback	30-feet	6.89-feet
Street Side Setback	20-feet	n/a
Maximum Height	30 feet/2 stories	15-feet/1 story
Minimum Lot Area	43,560 square feet	45,515-sq. ft.
Minimum Lot Width	145-feet	204.26-feet
Lot Coverage	15%	10.2%

Standards indicated in **bold** do not meet minimum base zoning standards.



Aerial photograph of the subject site and surrounding environs

Land Use Analysis:

18. The subject site is in the southeastern portion of Maricopa County. This area is rapidly developing from farm land to rural residential uses. The subject site is located within a Class 1a county island with the Town of Gilbert surrounding the subject site on three sides. The Town has annexed to within $\frac{1}{4}$ of a mile to the west and directly north of the subject site, across Appleby Road. The annexed property north of the site and north of Appleby Road is zoned for significantly higher density properties.

19. The subject site is located in an area developing through the lot splitting process. There are a number of one to two-acre parcels in the area. The majority of parcels are larger than one-acre in size. Much of the development on the subject site as well as the surrounding properties began in the 1990s. The area is mostly rural in character with a number of properties in the area having equestrian use and agricultural facilities. This particular site is a remnant of a citrus orchard. The general area consists of large single-family homes on acre lots or larger with some agricultural fields.
20. Historically, the Board of Adjustment has heard several cases in the immediate area. Staff research found that seven cases were relevant to the case at hand. The cases were found within a square mile of the subject property. Their summaries are as follows:
- Case **BA2006009**, was a request for variances to permit: 1) an existing single-family residence to setback 28'-4" from the side (west) property line where 30 feet is the minimum required; and 2) an existing lot area of 43,555.6-sq. ft. where 43,560-sq. ft. is the minimum required in the Rural-43 zoning district. These requests were approved. The site is located approximately two hundred feet due north of the subject site. The address of the property is 15445 E. Appleby Road.
 - Case **BA2005073**, was a request for variances to permit: 1) an existing lot area of 43,555-square feet where 43,560-square feet is the minimum required, and 2) a proposed detached accessory structure to setback 3 feet from the side (east) property line where 30 feet is the minimum required in the Rural-43 zoning district. The first request was approved the second request was denied. The address of the property is 15427 E. Appleby Road.
 - Case **BA2004121**, was a request for variances to permit: 1) an existing accessory structure (parking shade) to setback 8 feet from the side (north) property line; and 2) an existing accessory structure (barn/garage) to setback 5 feet from the side (south) property line where 30 feet is the minimum required in the Rural-43 zoning district. These requests were approved. The site is located approximately one-mile west of the subject site. The address of the property is 21211 S. 142nd Street.
 - Case **BA2004117**, was a request for variances to permit: 1) an existing detached accessory structure (garage) to setback 15 feet from the side (south) property line where 30 feet is the minimum required; and 2) an existing single-family residence to setback 65-feet from the front (east) property line where 70 feet is the minimum required in the Rural-43 zoning district. These requests were approved. The site is located approximately one-mile west of the subject site. The address of the property is 21410 S. 146th Street in the Gilbert area.

- Case **BA2004065**, was a request to permit: 1) a proposed accessory structure (shop) to setback three feet from the side (east) property line where 30 feet is the minimum required; and 2) a proposed accessory structure (shop) to setback 50 feet from the front (north) property line where 55 feet is the minimum required. These requests were denied. The property is located approximately $\frac{3}{4}$ miles east of the subject site. The address of the property is 16307 E. Magnolia Drive.
- Case **BA2004054**, was a request to permit: 1) an existing detached accessory structure (hay barn) to setback 10'-4" from the side (east) property line where 30 feet is the minimum required, 2) an existing building separation distance (horse shade/hay barn) of 11'-10" where 15 feet is the minimum required; and 3) an existing detached accessory structure (shade structure) to setback 0 feet from the rear (north) property line where three feet is the minimum required in the Rural-43 zoning district. These requests were denied. The property is located $\frac{3}{4}$ miles east of the subject site. The address of the property is 16224 E. Magnolia Drive.
- Case **BA2002052**, was a request to permit an existing detached accessory structure (shop) to setback 10 feet from the side (west) property line where 30 feet is the minimum required. This request was denied. The property is located approximately one mile south of the subject site. The address of the property is 3209 S. 156th Street.



Aerial photograph of subject site

Plan Analysis:

- *21. The original request was for multiple variances to permit a proposed accessory structure to be constructed 6.89 feet to the side property line, and an existing single family residence that is 34 feet from the front property line thereby not meeting the set back requirements in the Rural-43 Zoning District. These requests came about when the applicant applied for a building permit to build an accessory structure on the subject site. The applicant was informed that the subject site was not in compliance with the Zoning Ordinance and would require a variance before proceeding with any building permits on the property. The applicant stated at the July 12, 2006 Board of Adjustment hearing that he had been given different information when he previously met with front counter staff and that he was confused as to what was required to bring his property into compliance and that he only wished to know where he could legally place his proposed accessory structure on the site. The Board of Adjustment voted to continue this variance request case to the August 9, 2006 hearing date so the applicant could meet with staff and revise the site plan. The applicant was later informed by staff as to where he might place his proposed structure. The applicant provided a revised site plan which eliminated one of the two original variance requests. The remaining variance request is to permit an existing single family residence that is 34 feet from the front property line thereby not meeting the set back requirements in the Rural-43 Zoning District.
- *22. This variance request pertains to an existing single family residence which is not in compliance with the front yard requirement of 40-feet. Staff research revealed that a building permit was issued for the existing single-family residence in 2000 and that the residence was given a final inspection in October of 2001. County records indicate that the approved setbacks vary somewhat from the existing setbacks indicated on the site plan provided by the applicant. Staff believes the residence was constructed at the incorrect place on the subject site and this was not noted by field staff when performing inspections.
- 23. Staff is of the opinion that this situation can be considered to be an unusual circumstance. The construction of the residence was permitted and inspected by the County. The current owner had nothing to do with this part of the process and has only recently taken possession of the site. The alternatives in this instance are to remove a portion of the existing residence or to attempt to obtain additional property from the property immediately west of the subject site. Demolishing a portion of the residence would appear to be an extreme measure. Obtaining additional property may be difficult or unfeasible. Staff continues to recommend that this request be approved.

Recommendation: (BA2006059)

24. Staff recommends **approval** of this variance request based on the following:

- The relief requested is the minimum required necessary to provide the applicant with full use and enjoyment of the property.
- The request does not conflict with the intent of the Zoning Ordinance.
- The request is not self-created but is due to unusual circumstances beyond the applicant's control.

Subject to the following stipulation:

- a) General compliance with the site plan dated received July 17, 2006.

25. If the Board finds that a reasonable use of the property can be made without this variance, then this request should be denied.

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Attachments: Case Map BA2006059
Zoning Map
Assessor Map
Site Plan
Application
Supplemental Questionnaire
Petition of support (10 signatures)